

DISTRICT OF COLUMBIA HOUSING AUTHORITY

NOTICE OF FINAL RULEMAKING

The Board of Commissioners of the District of Columbia Housing Authority (pursuant to D.C. Official Code § 6-203(3), D.C. Law 13-105, The District of Columbia Housing Authority Act of 1999) hereby gives notice of the adoption of Chapter 84 to Title 14 DCMR, Rental Subsidy Programs: Certifications. This new chapter governs certification and recertification in the DCHA's Housing Choice Voucher Program, as well as other rent subsidy programs. Final action to adopt these rules was taken at the Board of Commissioners regular meeting on September 12, 2007. Notice of Proposed Rulemaking was published on May 18, 2007 (54 DCR 5029). An Erratum was published on July 13, 2007 (54 DCR 6749) and a second Erratum was published on September 7, 2007 (54 DCR 8828). Based on comments from the public, some changes have been made. Minor, but not substantial changes were made to the text of the proposed rules as published under the notice of proposed rulemaking. These final rules will be effective upon publication of this notice in the D.C. Register.

CHAPTER 84 RENT SUBSIDY PROGRAMS: CERTIFICATIONS

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8400 INTRODUCTION TO CERTIFICATION

8400.1 DCHA's rent subsidy programs are all predicated on supplementing the rent a Family of a certain size and gender composition can pay based on their Annual Income, adjusted for certain deductions and allowances, by paying a subsidy directly to the Owner. Certification of household income and family composition is critical to the accurate payment of the subsidy the Family is entitled to under the rules of each particular rent subsidy program. Unless otherwise noted in this Chapter or other Chapters about special housing programs in this Title 14, the certification and recertification of income and household composition is conducted under the provisions of this Title.

8400.2 There are four (4) types of certifications addressed herein below:

- (a) Initial certification at the time a voucher is initially issued;

- (b) Regular, periodic recertification, typically biennially, to ask the Family to certify and verify their income and household composition;
- (c) Transfer certification that occurs when a Family requests a transfer voucher under the portability or move provisions of the Administration Plan adopted pursuant to 24 CFR § 982.54; and
- (d) Interim change recertification when the Family reports a change in between the periodic recertifications.

8401**INITIAL CERTIFICATION****8401.1**

To be eligible to participate in a DCHA rent subsidy program, an Applicant must meet certain criteria as set forth in Chapter 61 of this Title, including, but not limited to, the following:

- (a) Income limits;
- (b) Provision of Social Security Numbers;
- (c) Family composition information;
- (d) Clearance of outstanding debts to DCHA or other Public Housing authorities; and
- (e) Criminal background checks.

8401.2

The Applicant must meet the initial certification requirements qualifying as a Family as follows:

- (a) Two (2) or more persons sharing residency whose income and resources are available to meet the Family's needs and who are related or have evidence of a stable family relationship, such as:
 - (i) Child together by birth, adoption or legal guardianship documentation;
 - (ii) Joint tax returns;
 - (iii) Joint prior lease; or
 - (iv) Joint bank accounts, insurance policies or utility bills.
- (b) A single person, who is:

- (i) Expecting a child, even if she is no longer carrying a child at the time of voucher issuance or lease up;
 - (ii) Sixty-two (62) years of age or older;
 - (iii) Disabled with a physical impairment which is expected to be of long continued and indefinite duration which substantially impedes, but does not prohibit the ability, to live independently;
 - (iv) Disabled within the meaning of the Social Security or Developmentally Disabled Acts; or
 - (v) Displaced due to a declared disaster and not living in standard replacement housing.
- (c) A live-in aide who has been approved as a Reasonable Accommodation in accordance with the provisions of Chapter 74 of this Title, but whose income is not counted for purposes of determining eligibility or total tenant payment.
- (d) The household composition, as reported and verified in accordance with the provisions of the Title, is the basis for the initial certification and calculation of total tenant payment by the Family and housing assistance payment to the owner.

8401.3

The income of Families in the rent subsidy programs is subject to the following restrictions:

- (a) Certification for admission to the program is based on the unadjusted Annual Income of the household before any deductions or allowances;
- (b) Except for certain special rental housing assistance programs, the unadjusted Annual Income may not exceed the low income limit of fifty percent (50%) of area median income established by HUD annually and published in the Federal Register for the family size;
- (c) For the Housing Choice Voucher Program, at least seventy percent (70%) of the participants in the program may not exceed the very low income limit of thirty percent (30%) of area median income established by HUD annually and published in the Federal Register by family size in the same way;
- (d) Changes to Annual Income that exceed such limits after issuance of a voucher or during participation in the program are not a basis for termination from a rent subsidy program; and

- (e) Notwithstanding the provisions in (d) above, participants whose Annual Income exceeds the initial income limits, are subject to reporting such increase and an adjustment of subsidy at that time as well as at regular and interim reexaminations which can result in adjustments to the amount of subsidy provided to the Family.

8401.4 In order to calculate the amount of the Tenant Payment, the amount of the housing assistance payment subsidy for the owner, the Family's income must be reported and verified as well as any allowances or deductions as required at the time of initial certification.

8401.5 In certain special types of rent subsidy programs, as may be specified in other Chapters of this Title, the annual adjusted income of the household may be permitted to be up to eighty percent (80%) of the area median income as determined from time to time by the HUD.

8402 SUITABILITY SCREENING

8402.1 In addition to the eligibility and certification requirements summarized above, other factors which relate to the suitability of an Applicant Family as Tenants may be applied by an Owner, provided the factors are reasonably related to tenancy and are used to screen all Applicants for the owner's units, whether or not the Applicant is a participant in a DCHA rent subsidy program.

8402.2 The screening factors an owner may use include such factors as:

- (a) Prior rent paying history;
- (b) Credit bureau reports of credit history;
- (c) Outstanding debts to previous landlords;
- (d) History of damage to rental properties or housekeeping generally;
- (e) Police records from any jurisdiction within any time period of lease application; and
- (f) Employment.

8403 REGULAR PERIODIC RECERTIFICATION

8403.1 Regular recertifications are conducted of family composition, income, allowances and deductions by DCHA on a biennial basis or such other basis as may be announced in the District of Columbia Municipal Register from time to time.

8403.2 Income limits are not used as a test for continued eligibility at recertification.

8404

INTERIM RECERTIFICATIONS

8404.1

An interim recertification of any Participant family's composition, income, allowances and deductions, may be conducted at the election of DCHA at any time following an initial or regular recertification as follows:

(a) A Family is subject, upon notice thereof, to recertification if DCHA has any reason to believe that inaccurate, false or incomplete information or verifications have been provided; or

(b) Families reporting zero (\$0) Annual Income or whose income cannot be projected with any reasonable degree of accuracy are subject to recertification every ninety (90) Days upon notice thereof by DCHA.

8404.2

As any changes to household composition and income, allowances or deductions, are likely to result in an increase or decrease in rental subsidy provided for under the program, the Family must report such changes in the times and with the effect on subsidy payments as set forth in the Administrative Plan adopted pursuant to 24 CFR § 982.54

8404.3

Families are required to report any increase in household income from wages or assets to DCHA.

8404.4

Families may report a decrease in household income or other changes such as increases in allowances or deductions which would reduce the amount of Tenant rent.

8404.5

Families are required to report the following changes in family composition.

(a) A member has been added to the Family through birth, adoption or court-awarded custody or any other kinship arrangement that is verifiable by a third party organization or governmental entity;

(b) A household member is leaving, on a more than temporary basis as identified in the Administrative Plan adopted pursuant to 24 CFR § 982.54, or has left the family unit due to family break-up, death, establishing their own family unit, or any other reason;

(c) The elderly or disability status of a household member has changed, or a household member other than a spouse of Head of Household is a Full Time Student; and

(d) Any other change in status by an existing member of the household composition that would modify the determination of Tenant Payment.

**8405 TIMELY REPORTING AND CHANGES TO TOTAL TENANT
PAYMENT**

8405.1 The following are the reporting requirements for changes to income:

- (a) The Family must report any change in income or assets within thirty (30) Days of when the change occurs; and
- (b) Documentation of the changes must be provided at the recertification appointment or within ten (10) Days of request therefore. Any requested documentation that is not received within ten (10) Days shall be considered untimely and may result in a notice of proposed termination.

8405.2 The following are the reporting requirements for changes to family composition:

- (a) All changes in family composition are required to be reported:
 - (i) If a minor, within thirty (30) calendar Days of its occurrence, and
 - (ii) In the case of an adult, the change is required to be reported prior to the adult's addition to the household;
- (b) If the unit is overcrowded due to a family composition change (the Family is under-housed) a Family being assisted under a tenant-based program may request a voucher to move in accordance with the provisions of Chapter 85 hereof and the Family will be issued a transfer voucher;
- (c) If the Family is over-housed due to a reduction in family composition, the Family may elect to request a transfer voucher and move to an appropriately sized unit, or the Family may remain in the unit and pay the difference in the rent owed, as the subsidy will be continued on the basis of the smaller family size; and
- (d) If the Family does not locate a suitable unit that is either larger or smaller than their present unit, and the Family's transfer voucher expires, the Family may remain in the unit, and the subsidy will be based on the lesser of the unit occupied or the new family composition and size.

8405.3 All increases in Tenant Payment and reductions in housing assistance payments based on changes in the family's adjusted Annual Income are effective on the first of the month following the thirty (30) Days notice to Family and Owner. All decreases in Tenant Payment and increases in housing assistance payments are effective the first of the month after the change is reported.

8405.4 If the Family does not report the change in income or family composition within the thirty (30) Days as required hereinabove, the Family will be determined to

have caused an unreasonable delay in the interim recertification. If the change is not reported timely and the change results in an increase in the family share (Tenant Rent), then:

- (a) The increase in Tenant Rent will be effective as of the first of the month following the change;
- (b) Any excess housing assistance payment subsidy already paid to owner based on a lower Tenant Payment based on the size of the household or lower adjusted Annual Income will be charged to the owner;
- (c) Any excess housing assistance payment due to a failure to report a smaller household size will be calculated by taking the larger household size payment standard and subtracting the smaller household size payment standard for calculating the Tenant Payment portion and multiplying the difference times the number of months that the Tenant Payment was based on the incorrect family composition; and
- (d) Any excess housing assistant payment due to a failure to properly report additional adjusted Annual Income will be determined using the adjusted Annual Income back to the first of the month following the date the change should have been reported.

8405.5 If the Family timely reports a change, the change goes in to effect at the later of:

- (a) The first day of the month following the report of the change; or
- (b) The first of the month that is thirty (30) Days after DCHA provides written notice to the Family and Owner.

8405.6 Decreases to Tenant Payment that result in an overpayment by the participant will be calculated retroactively to the date the change should have been effective and a check will be sent to the Family.

8406 TIMING OF NEXT RECERTIFICATION

8406.1 In the event there is an interim adjustment to the Total Tenant Payment following the report of a change in income, allowances, deductions or family composition, that is made less than six (6) months before the regularly scheduled recertification, such regularly scheduled recertification will be skipped and the next regular recertification will be the next biennial recertification.

8407 CHANGE IN TOTAL TENANT PAYMENT AFTER REGULAR OR INTERIM RECERTIFICATION

- 8407.1 The HUD Form 50058 will be completed and transmitted as required by HUD. The completion and transmission of such form has no affect on payments or DCHA's obligations to make payments in accordance with the provisions of this Chapter.
- 8407.2 A notice of change in Tenant Payment and payment to owner is sent to the owner and the participant thirty (30) Days prior to the implementation of the change as follows:
- (a) Notices that increase the required Tenant Payment shall be mailed at least thirty (30) Days before the first of the month that an increase in Tenant Payment goes in to effect;
 - (b) Signatures of the participant and owner are not required. Participants may not waive the thirty (30) Day written notice for an increase in Tenant Payment;
 - (c) A form showing the calculation of the new Tenant Payment is mailed with the notice; and
 - (d) If the participant disagrees with the change in Tenant Payment, they may file a grievance in accordance with the provisions of Chapter 89 of this title.

8408**THIRD PARTY VERIFICATION FOR ALL CERTIFICATIONS**

- 8408.1 In order to determine the adjusted Annual Income of any Participant family either upon initial certification or upon any examination as set forth in this Chapter, and except as otherwise provided in the Administrative Plan, adopted pursuant to 24 CFR § 982.54, the DCHA is required to obtain and retain in the file of each Family, documentation which provides third party verification of the following:
- (a) Annual Income of the Participant family;
 - (b) The value of the household's assets;
 - (c) Allowances or deductions from Annual Income; and
 - (d) Other factors affecting adjusted Annual Income as required in this Title or the requirements, guidelines or notices published by HUD from time to time.
- 8408.2 If third party verification is not complete or available for income or assets, DCHA must document the efforts made to obtain such verification. Income can be included without verification. Deductions, allowances or other factors affecting adjusted gross income are not allowed without third party verification.

8408.3 Verifications may be required, at the discretion of DCHA, more frequently than annually for certain types of certifications, such as a self-certification of zero (\$0) Annual Income for the household.

8408.4 DCHA allows ten (10) business Days for the return of third party verifications or any Participant family documents or certifications.

8408.5 Verifications may not be more than one hundred twenty (120) Days old at the time a voucher is issued.

8408.6 Income information provided by the Family will be verified using the HUD approved Upfront Income Verification method (UIV). This includes verification from HUD's computerized Enterprise Income Verification System, similar District of Columbia government computer based systems and non-government web based systems. Family provided income information will be verified as follows:

- (a) In the event the Family provided income information is verified by the UIV method no further verification is required;
- (b) In the event the Family provided income information is substantially different (variance of more than two hundred dollars (\$200.00) per month), the family disputes the UIV data or additional information is required, the following hierarchy of verification methods will be followed:
 - (i) Written third party verification;
 - (ii) Oral third party verification;
 - (iii) Family provided documentation; or
 - (iv) Family declaration under oath; and
- (c) Verification of required family information concerning assets, Full Time Student status, medical expenses, requests for larger units, preference status, and zero (\$0) income status shall be obtained by written third party verification. If the written third party verification is unobtainable after diligent efforts by DCHA then the hierarchy in (b)(ii), (iii) and (iv) of this Subsection shall be followed.

8409 RELEASE OF RECORDS OR OTHER INFORMATION FOR ALL REPORTING AND RECERTIFICATIONS

8409.1 Each family member over eighteen (18) will be required to execute an authorization for the information sources to release records to DCHA.

- 8409.2 The release will cover all sources of information, included and not limited to the information included in HUD's Form 9886, "Authorization for Release of Information/Privacy Act Notice."
- 8409.3 A release by each covered family member must be executed and updated at every recertification, whether initial, interim or periodic.
- 8409.4 Refusal of any member of the Participant family to supply any information, sign consent or release forms, or otherwise cooperate with the verification requirements of the program shall result in denial of admission or termination of assistance for the Family.
- 8409.5 Termination or denial of assistance is subject to review or informal hearing as provided for in Chapter 89 of this Title.